

Message Text

CONFIDENTIAL

PAGE 01 OTTAWA 06673 01 OF 02 222350Z
ACTION EUR-12

INFO OCT-01 ISO-00 L-03 CIAE-00 COME-00 DODE-00
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FM AMEMBASSY OTTAWA
TO SECSTATE WASHDC NIACT IMMEDIATE 4227

C O N F I D E N T I A L SECTION 01 OF 02 OTTAWA 06673

EO 11652: GDS
TAGS: EFIS, PBOR, CA
SUBJECT: BOUNDARY AND FISHERY NEGOTIATIONS WITH CANADA

REF: OTTAWA 6624

1. AT HIS REQUEST, WE CALLED ON COPITHORNE AT NOON TO RECEIVE WHAT WAS CANDIDLY DESCRIBED BY HIM AS "RETRO-GRESSIVE" PROPOSALS. JIM NUTT, DIRECTOR GENERAL OF WESTERN HEMISPHERE AFFAIRS, WAS ALSO PRESENT. COPITHORNE BEGAN BY PRESENTING FOLLOWING TWO PARAGRAPHS WHICH GOC WOULD LIKE US TO SUBSTITUTE FOR PARAGRAPHS TWO AND THREE OF OUR PROPOSED PRESS RELEASE: BEGIN QUOTE. THE GOVERNMENT OF CANADA HAS NAMED AMBASSADOR MARCEL CADIEUX TO CONDUCT ITS NEGOTIATIONS. AMBASSADOR CADIEUX FORMERLY SERVED AS UNDER-SECRETARY OF THE DEPARTMENT OF EXTERNAL AFFAIRS IN OTTAWA AND AS AMBASSADOR OF CANADA TO THE UNITED STATES. HE IS ON TEMPORARY ASSIGNMENT FROM HIS POSITION AS CANADIAN AMBASSADOR TO THE EUROPEAN COMMUNITIES.

THE TWO COUNTRIES ATTEMPTED TO RESOLVE THEIR MARITIME BOUNDARY AND FISHERIES ISSUES IN TALKS FROM LATE 1975 TO EARLY 1977. FAILING AGREEMENT, EARLIER THIS YEAR THEY ENTERED INTO INTERIM RECIPROCAL FISHERIES AGREEMENT FOR
CONFIDENTIAL

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PAGE 02 OTTAWA 06673 01 OF 02 222350Z

1977 TO ENABLE EACH COUNTRY TO CONTINUE FISHING IN THE 200-MILE ZONE OF THE OTHER WHILE NEGOTIATIONS FOR MORE PERMANENT ARRANGEMENTS PROCEED. THE NEW NEGOTIATIONS WILL RESUME UNDER THE DIRECTION OF AMBASSADOR CUTLER AND AMBASSADOR CADIEUX AROUND AUGUST 1. END QUOTE. (COMMENT: WE BELIEVE THESE CHANGES SHOULD BE ACCEPTABLE TO US. END COMMENT.)

2. COPITHORNE THEN PRESENTED FOLLOWING PROPOSED GOC PRESS RELEASE WHICH HE SAID HAD BEEN APPROVED BY UNDER-SECRETARY GOTLIEB: BEGIN QUOTE. APPOINTMENT OF SPECIAL BOUNDARIES NEGOTIATOR. THE PRIME MINISTER'S OFFICE TODAY ANNOUNCED THE APPOINTMENT OF MR. MARCEL CADIEUX AS CANADIAN SPECIAL NEGOTIATOR FOR CANADA/UNITED STATES MARITIME BOUNDARIES AND RELATED RESOURCE ISSUES. THIS ANNOUNCEMENT FOLLOWS AGREEMENT BETWEEN THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS DON JAMIESON AND UNITED STATES SECRETARY OF STATE VANCE THAT THE TWO GOVERNMENTS SHOULD APPOINT SPECIAL NEGOTIATORS TO CONDUCT INTENSIVE NEGOTIATIONS OVER THE NEXT FEW MONTHS IN A MAJOR EFFORT TO REACH A COMPREHENSIVE SETTLEMENT OF THESE ISSUES. THE SPECIAL NEGOTIATORS WILL TAKE UP THEIR APPOINTMENTS ON AUGUST 1.

MR. CADIEUX, WHO WILL BE ON TEMPORARY ASSIGNMENT FROM HIS POSITION AS CANADIAN AMBASSADOR TO THE EUROPEAN COMMUNITIES, IS A FORMER CANADIAN AMBASSADOR TO THE UNITED STATES, FORMER UNDER-SECRETARY OF STATE FOR EXTERNAL AFFAIRS AND LEGAL ADVISOR TO THAT DEPARTMENT.

THE TWO GOVERNMENTS HAVE AGREED TO GENERAL TERMS OF REFERENCE TO GUIDE THE NEGOTIATORS. THEY HAVE AGREED THAT THEIR SPECIAL NEGOTIATORS WILL CONDUCT AD REFERENDUM ON BEHALF OF EACH GOVERNMENT, NEGOTIATIONS ENCOMPASSING:
(A) MARITIME BOUNDARIES DELIMITATION,
(B) THE PRINCIPLES GOVERNING COMPLEMENTARY FISHERY AND
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 OTTAWA 06673 01 OF 02 222350Z

HYDROCARBON RESOURCE ARRANGEMENTS AS APPROPRIATE, AND
(C) SUCH OTHER RELATED MATTERS AS THE TWO GOVERNMENTS MAY DECIDE.

THE NEGOTIATORS WILL REPORT TO GOVERNMENTS BY OCTOBER 15, 1977 ON THE POSSIBLE ELEMENTS OF A COMPREHENSIVE SETTLEMENT AND WILL DEVELOP THE SUBSTANCE OF AN AD REFERENDUM COMPREHENSIVE SETTLEMENT FOR SUBMISSION TO GOVERNMENTS BY DECEMBER 1, 1977. THE NEGOTIATORS WILL ORGANIZE AND CONDUCT THE NEGOTIATIONS IN THE MANNER AND IN THE PLACES WHICH THEY JUDGE WILL BEST FACILITATE A SETTLEMENT.

NEGOTIATIONS CONCERNING WEST COAST SALMON WILL BE RESUMED SEPARATELY ON A PRIORITY BASIS. THE SPECIAL NEGOTIATORS WILL DETERMINE THE RELATIONSHIP, IF ANY, BETWEEN THE TWO SETS OF NEGOTIATIONS. END QUOTE.

3. IN A SOMEWHAT APOLOGETIC TONE, COPITHORNE INDICATED EXTAFF HAD ENCOUNTERED A NUMBER OF DIFFICULTIES IN TRYING TO OBTAIN INTERDEPARTMENTAL CLEARANCE ON A DRAFT PRESS RELEASE WHICH CONTAINED LANGUAGE OF "ELEMENTS" PAPER. IN PROCESS, ALL OLD WOUNDS RELATING TO ROLE OF SPECIAL NEGOTIATORS AND THEIR OBJECTIVE HAD BEEN REOPENED, AND

EXTAFF HAD FINALLY BEEN ABLE TO OBTAIN APPROVAL OF ABOVE TEXT. ONE MAJOR CHANGE, HE NOTED, IS CONTAINED IN (B) I.E. "PRINCIPLES GOVERNING COMPLEMENTARY FISHERY AND HYDRO-CARBONS RESOURCE ARRANGEMENTS AS APPROPRIATE". FISHING OFFICIALS ARGUED THAT SPECIAL NEGOTIATORS WOULD NOT HAVE EXPERTISE TO GET INTO TONNAGE AND TECHNICAL DETAILS OF CATCHES, ETC. AND THAT THESE MATTERS WOULD HAVE TO BE DEALT WITH BY EXPERTS. GOC, HE SAID, BELIEVES SPECIAL NEGOTIATORS SHOULD SEEK TO ESTABLISH "THE PRINCIPLES" OR "THE FRAMEWORK" FOR AN AGREEMENT ON FISHERIES AND HYDRO-

CONFIDENTIAL

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PAGE 01 OTTAWA 06673 02 OF 02 222357Z

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C O N F I D E N T I A L SECTION 02 OF 02 OTTAWA 06673

CARBONS. IN RESPONSE, WE NOTED THAT TEXT SPECIFICALLY PROVIDES THAT "NEGOTIATORS WILL ORGANIZE AND CONDUCT THE NEGOTIATIONS IN MANNER AND IN PLACES WHICH THEY JUDGE WILL BEST FACILITATE A SETTLEMENT". THEREFORE, NEGOTIATORS COULD AGREE TO ESTABLISH A SUB-GROUP OF EXPERTS TO CONSIDER TECHNICAL MATTERS. IN SUM, THEY WOULD NOT BE PRECLUDED FROM GETTING IN DETAILS ON THESE MATTERS AND FROM MAKING PRECISE PROPOSALS ON THEM. COPITHORNE AGREED AND SPECIFICALLY STATED IT IS NOT THEIR INTENTION TO EXCLUDE INVOLVEMENT OF SPECIAL NEGOTIATORS IN DETAILS IF THEY CONSIDERED SUCH INVOLVEMENT NECESSARY.

4. RE NEXT PARAGRAPH, HE INDICATED THAT FISHERY DEPARTMENT INSISTED ON "POSSIBLE" ELEMENTS OF A COMPREHENSIVE SETTLEMENT AND ON "DEVELOP" FOR "SUBMISSION" RATHER THAN "PRESENT" TO GOVERNMENTS THE SUBSTANCE OF AN AD REFERENDUM COMPREHENSIVE SETTLEMENT. NUTT ARGUED THAT THESE CHANGES ARE LARGELY "OPTICAL", I.E. THEY ARE DESIGNED TO MAKE IT CLEARER NEGOTIATORS WILL NOT HAVE FINAL SAY.

5. TO OUR QUESTION WHETHER IT IS GDC INTENTION TO HAVE DRAFT PRESS RELEASE SUPERSEDE "ELEMENTS" PAPER, COPITHORNE REPLIED AFFIRMATIVELY, INDICATING LATTER "HAD LIVED ITS LIFE AS A WORKING PAPER". WE COMMENTED THAT WE COULD NOT CONFIDENTIAL

CONFIDENTIAL

PAGE 02 OTTAWA 06673 02 OF 02 222357Z

SAY DEFINITELY AT THIS STAGE WHAT WASHINGTON REACTION WOULD BE, BUT NATURE OF CHANGES GOC PROPOSED COULD RAISE QUESTIONS ABOUT UTILITY OF NEGOTIATIONS. IN RESPONSE, NUTT ASSERTED THAT GOC IS DEAD SERIOUS ABOUT WANTING SPECIAL NEGOTIATORS TO SUCCEED IN DEVELOPING A COMPREHENSIVE SETTLEMENT AND THAT LATEST CANADIAN CHANGES AS EMBODIED IN PROPOSED PRESS RELEASE ARE NOT A "SUBTERFUGE" DESIGNED TO MAKE NEGOTIATIONS A PRO FORMA EXERCISE. NUTT WENT ON TO SAY THAT CADIEUX, AS ONE OF CANADA'S MOST RESPECTED DIPLOMATS, WOULD NOT HAVE ACCEPTED POSITION OF SPECIAL NEGOTIATOR IF IT WAS GOING TO BE PRO FORMA EXERCISE. BOTH NUTT AND COPITHORNE MADE STRONG PLEA THAT WE BE UNDERSTANDING OF INTERNAL DIFFICULTIES IN GOC AND THAT WE ACCEPT IN OUR PRESS RELEASE LANGUAGE SIMILAR TO THEIRS. AS NUTT PUT IT, "ONCE WE GET LAUNCHED (IN THE NEGOTIATIONS), WE'LL BE ALL RIGHT".

6. COMMENT: WE TEND TO BELIEVE EXTAFF IS SINCERE IN WANTING NEGOTIATIONS TO SUCCEED, BUT WE CANNOT SAY SAME FOR MINISTRY OF FISHERIES AND ENVIRONMENT. AS EVENTS OF PAST SEVERAL WEEKS HAVE DEMONSTRATED, LATTER SEEMS TO BE ABLE OFTEN TO PREVAIL OVER EXTAFF. IN OUR JUDGMENT, NEW GOC TEXT COULD EASILY SET UP AN EXERCISE IN FUTILITY BY GETTING BOUNDARY AND FISHERIES NEGOTIATIONS OUT OF PHASE, AND FURTHER WEAKENING ROLE OF NEGOTIATORS AS PROPOSERS OF COMPREHENSIVE SOLUTION. BEFORE REQUESTING INSTRUCTIONS, I AM GOING BACK TO CANADIANS AT HIGHER LEVEL TO PROBE THINKING BEHIND CHANGES DISCUSSED IN PARAS 3 AND 4 ABOVE AND TO MAKE CLEAR TO PRINCIPALS HERE THEIR IMPLICATIONS. ENDERS

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